

REMARKS

Claims 26, 39, 41, 42 and 45 have been amended. Support for the amendments may be found, for example, at page 3 of the specification. No new matter has been added.

Claims 26, 28-35, 37-39, and 41-48 are pending.

CLAIM REJECTIONS

Rejection of claims under 35 U.S.C. § 103

Midha in view of Gebhard

The Examiner has rejected claims 26, 28-35 and 37-39 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,986,015 to Midha et al. ("Midha") in view of U.S. Patent No. 5,612,397 to Gebhard et al. ("Gebhard"). See pages 3-6 of the Office Action. Claims 28-35 and 37-38 depend from independent claim 26. Claim 39 is an independent claim.

Claim 26 relates to a cosmetic composition, including a cosmetically acceptable carrier containing: (a) at least one fixing film-forming polymer that is a branched block copolymer consisting essentially of 27.5 to 30.5 mol % of n-butyl acrylate, 26 to 36 mol % of acrylic acid, 33.3 to 45.3 mol % of methacrylic acid, and 0.48 to 0.92 mol % of allyl methacrylate, the polymer having a structure comprising hydrophobic blocks onto which more hydrophilic blocks are attached via bi-functional units, (b) at least one thickening agent that is a cross-linked or non-cross-linked homopolymer or copolymer based on acrylic acid or methacrylic acid or acrylic and methacrylic acid, and (c) at least one co-thickening agent that is a non-cellulosic thickening polymer different from thickening agent (b), wherein the fixing film-forming polymer has at least two glass transition temperatures.

Claim 39 relates to a method for the styling and fixing of hair, including applying to the hair a cosmetic composition including a cosmetically acceptable carrier containing: (a) at least one fixing film-forming polymer that is a branched block copolymer consisting essentially of, 27.5 to 30.5 mol % of n-butyl acrylate, 26 to 36 mol % of acrylic acid, 33.3 to 45.3 mol % of methacrylic acid, and 0.48 to 0.92 mol % of allyl methacrylate, the polymer having a structure comprising hydrophobic blocks onto which more hydrophilic blocks are attached via bi-functional units, wherein the fixing film-forming polymer has at least two glass transition temperatures, (b) at least one thickening agent that is a homopolymer or copolymer based on acrylic acid or methacrylic acid or acrylic and methacrylic acid that is cross-linked or non-cross-linked, and (c) at least one co-thickening agent that is a non-cellulosic thickening polymer

different from thickening agent (b), wherein the composition has a viscosity of at least about 1.9 Pa.s.

Midha describes "an improved method of making hydrophobic and hydrophilic graft polymers" See Abstract of Midha. Midha does not teach or suggest a cosmetic composition which includes a cosmetically acceptable carrier containing at least one fixing film-forming polymer that is a branched block copolymer consisting essentially of 27.5 to 30.5 mol % of n-butyl acrylate, 26 to 36 mol % of acrylic acid, 33.3 to 45.3 mol % of methacrylic acid, and 0.48 to 0.92 mol % of allyl methacrylate. Midha further does not teach or suggest a method for the styling and fixing of hair which includes applying to the hair a cosmetic composition including a cosmetically acceptable carrier containing: (a) at least one fixing film-forming polymer that is a branched block copolymer consisting essentially of, 27.5 to 30.5 mol % of n-butyl acrylate, 26 to 36 mol % of acrylic acid, 33.3 to 45.3 mol % of methacrylic acid, and 0.48 to 0.92 mol % of allyl methacrylate.

This defect is not remedied in Gebhard. Gebhard describes a "composition having wet state clarity includes an aqueous latex binder combination of polymer particles with a diameter of less than 80 nanometers and a thickener." See Abstract of Gebhard. Gebhard does not teach or suggest a cosmetic composition which includes a cosmetically acceptable carrier containing at least one fixing film-forming polymer that is a branched block copolymer consisting essentially of 27.5 to 30.5 mol % of n-butyl acrylate, 26 to 36 mol % of acrylic acid, 33.3 to 45.3 mol % of methacrylic acid, and 0.48 to 0.92 mol % of allyl methacrylate. Gebhard further does not teach or suggest a method for the styling and fixing of hair which includes applying to the hair a cosmetic composition including a cosmetically acceptable carrier containing: (a) at least one fixing film-forming polymer that is a branched block copolymer consisting essentially of, 27.5 to 30.5 mol % of n-butyl acrylate, 26 to 36 mol % of acrylic acid, 33.3 to 45.3 mol % of methacrylic acid, and 0.48 to 0.92 mol % of allyl methacrylate.

None of the above-cited references, alone or in combination, teach or suggest a cosmetic composition which includes a cosmetically acceptable carrier containing at least one fixing film-forming polymer that is a branched block copolymer consisting essentially of 27.5 to 30.5 mol % of n-butyl acrylate, 26 to 36 mol % of acrylic acid, 33.3 to 45.3 mol % of methacrylic acid, and 0.48 to 0.92 mol % of allyl methacrylate. None of the above-cited references, alone or in combination, teach or suggest a method for the styling and fixing of hair which includes applying to the hair a cosmetic composition including a cosmetically acceptable carrier containing: (a) at

least one fixing film-forming polymer that is a branched block copolymer consisting essentially of, 27.5 to 30.5 mol % of n-butyl acrylate, 26 to 36 mol % of acrylic acid, 33.3 to 45.3 mol % of methacrylic acid, and 0.48 to 0.92 mol % of allyl methacrylate.

Accordingly, claim 26 and dependent claims thereof and claim 39 are patentable over the combination of Midha and Gebhard for at least the reasons described above.

Midha in view of Merck

The Examiner has rejected claims 41-44 under 35 U.S.C. § 103(a) as being unpatentable over Midha in view of Merck Index, 11th ed., 1989, monograph 4486 ("Merck"). See Office Action at p. 6. Claims 42-44 depend from independent claim 41.

Claim 41 relates to a cosmetic composition that includes a cosmetically acceptable carrier containing (a) at least one fixing film-forming polymer that is a branched block copolymer consisting essentially of 27.5 to 30.5 mol % of n-butyl acrylate, 26 to 36 mol % of acrylic acid, 33.3 to 45.3 mol % of methacrylic acid, and 0.48 to 0.92 mol % of allyl methacrylate, the polymer having a structure comprising hydrophobic blocks onto which more hydrophilic blocks are attached via bi-functional units, wherein the fixing film-forming polymer has at least two glass transition temperatures, (b) at least one thickening agent that is a cross-linked or non-cross-linked homopolymer or copolymer based on acrylic acid or methacrylic acid or acrylic and methacrylic acid, and (c) at least one co-thickening agent that is guar gum, wherein the composition has a viscosity of at least about 1.9 Pa.s.

As previously discussed, Midha does not teach or suggest a cosmetic composition that includes a cosmetically acceptable carrier containing (a) at least one fixing film-forming polymer that is a branched block copolymer consisting essentially of 27.5 to 30.5 mol % of n-butyl acrylate, 26 to 36 mol % of acrylic acid, 33.3 to 45.3 mol % of methacrylic acid, and 0.48 to 0.92 mol % of allyl methacrylate.

Such a defect is not remedied in Merck. Merck is cited by the Examiner to show that "guar gum is a well-known thickening agent" See Office Action at p. 7. Merck does not teach or suggest a cosmetic composition that includes a cosmetically acceptable carrier containing (a) at least one fixing film-forming polymer that is a branched block copolymer consisting essentially of 27.5 to 30.5 mol % of n-butyl acrylate, 26 to 36 mol % of acrylic acid, 33.3 to 45.3 mol % of methacrylic acid, and 0.48 to 0.92 mol % of allyl methacrylate.

None of the above-cited references, alone or in combination, teach or suggest a cosmetic composition that includes a cosmetically acceptable carrier containing (a) at least one fixing film-forming polymer that is a branched block copolymer consisting essentially of 27.5 to 30.5 mol % of n-butyl acrylate, 26 to 36 mol % of acrylic acid, 33.3 to 45.3 mol % of methacrylic acid, and 0.48 to 0.92 mol % of allyl methacrylate.

Since claims 42-44 depend on claim 41, they are patentable over the combination of Midha and Merck for at least the reasons described above.

Midha in view of Merck and Gebhard

The Examiner has rejected claims 45-48 under 35 U.S.C. § 103(a) as being unpatentable over Midha in view of Merck and Gebhard. See Office Action at p. 8. Claims 46-48 depend from independent claim 45.

Claim 45 relates to a method for the styling and fixing of hair which includes applying to the hair a cosmetic composition including a cosmetically acceptable carrier containing: (a) at least one fixing film-forming polymer that is a branched block copolymer consisting essentially of 27.5 to 30.5 mol % of n-butyl acrylate, 26 to 36 mol % of acrylic acid, 33.3 to 45.3 mol % of methacrylic acid, and 0.48 to 0.92 mol % of allyl methacrylate, the polymer having a structure comprising hydrophobic blocks onto which more hydrophilic blocks are attached via bi-functional units, (b) at least one thickening agent that is a homopolymer or copolymer based on acrylic acid or methacrylic acid or acrylic and methacrylic acid that is cross-linked or non-cross-linked, and (c) at least one co-thickening agent that is guar gum, wherein the composition has a viscosity of at least about 1.9 Pa.s, wherein the fixing film-forming polymer has at least two glass transition temperatures.

As previously discussed, Midha and Gebhard do not teach or suggest a method for the styling and fixing of hair which includes applying to the hair a cosmetic composition including a cosmetically acceptable carrier containing: (a) at least one fixing film-forming polymer that is a branched block copolymer consisting essentially of 27.5 to 30.5 mol % of n-butyl acrylate, 26 to 36 mol % of acrylic acid, 33.3 to 45.3 mol % of methacrylic acid, and 0.48 to 0.92 mol % of allyl methacrylate. This defect is not remedied by Merck. Merck does not teach or suggest a method for the styling and fixing of hair which includes applying to the hair a cosmetic composition including a cosmetically acceptable carrier containing: (a) at least one fixing film-forming polymer that is a branched block copolymer consisting essentially of 27.5 to 30.5 mol % of n-

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butyl acrylate, 26 to 36 mol % of acrylic acid, 33.3 to 45.3 mol % of methacrylic acid, and 0.48 to 0.92 mol % of allyl methacrylate.

None of the above-cited references, alone or in combination, teach or suggest a method for the styling and fixing of hair which includes applying to the hair a cosmetic composition including a cosmetically acceptable carrier containing: (a) at least one fixing film-forming polymer that is a branched block copolymer consisting essentially of 27.5 to 30.5 mol % of n-butyl acrylate, 26 to 36 mol % of acrylic acid, 33.3 to 45.3 mol % of methacrylic acid, and 0.48 to 0.92 mol % of allyl methacrylate.

Since claims 46-48 depend on claim 45, they are patentable over the combination of Midha, Merck and Gebhard for at least the reasons described above.

CONCLUSION

Applicant believes that the claims are in condition for allowance.

A petition for a three-month extension of time and a Request for Continued Examination (RCE) is also submitted herewith.

Should any fees be required by the present Reply, the Commissioner is hereby authorized to charge Deposit Account 19-4293.

Respectfully submitted,

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